UNITED STATES PATENT AND TRADEMARK OFFICE

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09/932,033	08/17/2001	Yevgeniy Petrovykh	P5063	5374

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CENTRAL COAST PATENT AGENCY, INC	PATEL, ASHOKKUMAR B	
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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
	09/932,033	PETROVYKH, YEVGENIY
Office Action Summary	Examiner	Art Unit	
	Ashok B. Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 February 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-51</u> is/are pending in the application.

    4a) Of the above claim(s) <u>1-42</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>43-51</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-51 are subject to examination. Claims 1-42 are cancelled.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

08/07/2007 has been entered.

3.   35 U.S.C. 112 rejections are withdrawn based on the response provided as well

as the amendments made to the claims.

Response to Arguments

4.   Applicant's arguments filed on 08/07/2007 have been fully considered but they

are not persuasive for the following reasons:

Applicant's argument:

        "Applicant argues that Huck actually fails to teach an Instant Message sever as

disclosed in applicant's invention. As mentioned before, IM is a specific protocol that is

different for each provider and the capability must exist at the server and the same

capability and additional skill must also be present at the agent station. The Web server

of Huck merely teaches Internet Protocol and cannot read on the IM server, as

claimed."

"Further, applicant argues the art of Huck tails to teach a set of routing rules for the communication center; and stored agent data for the communication center, the data including agent availability and IM capability relative to one or more IM protocols; wherein the system consults the communication center routing rules, IM protocol capabilities and the stored agent data to determine an available agent with the needed IM capability, and establishes IM communication between the specific clients and the agent determined to be available and to have the needed IM protocol capability."

Examiner's response:

A.   First of all, Examiner would like to note the following statement presented by the Applicant on page 5 for the resolution of 35 U.S.C. § 112 rejection:

"Applicant points out that the sender and receiver of actual IM protocols must have matching software and capabilities installed on each others machine to enable accurate IM communication."

And as such, Examiner understands that the IM protocols are those protocols that facilitate the IM communication when the sender and receiver has matching IM protocols installed on each others machine.

Also, quoting the specifications for explaining "different IM service" , as part of arguments, for showing it's relevancy to the claim limitations, Applicant is reminded that "It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064."

B.   Second, Examiner would like to address the arguments by presenting the

following facts of the teachings of Huck, and to show it's relevancy to the claim

limitations.

a.   Huck teaches at col. 5, line 42-65, "This is illustrated in FIG. 1 by

client machine 24. <u>Collaboration is known in the art, and can include a chat</u>

<u>session</u>, but also includes the ability for the agent 38, 40, 42, 44, or 46 to "guide"

the user through various web sites in real-time. With web collaboration, no ANI is

available. The user's e-mail address may be obtained by the server 30 by

standard web "cookie" files stored on the user's client machine 24, or by user

entered information, or by user's IP address if fixed and not proxied through a

firewall. Note that no user identification of any kind is required, but aids an agent

in determining a user's needs. The call distribution server 30 selects an agent

38, 40, 42, 44, or 46 to which to forward the collaboration request based on rules

defined in the rules engine 34. Further communication between the selected

agent and the user will typically be by collaboration. user of a client machine has

the option of requesting <u>a chat session</u>. This is illustrated in FIG. 1 by client

machine 26. Chat is known in the art and chat rooms are available at web sites

of on-line service providers such as America Online (.TM.), for example. Much

like, and often a part of collaboration, the user is able to request a real-time chat

with an agent. This is also much like <u>a voice call</u>, simply using a different

medium. The basic process is substantially similar."

Thus, it is understood that Huck teaches two proprietary IM protocols.

b.   Huck teaches at Fig. 1, element 20, which is "WEB SERVER",

"CHAT SERVER", AND "COLLABORATION SERVER", AND AT COL. 4, LINE

10-13, "Software is installed on the web server 20 to support chat, collaboration,

e-mail, web phone, etc. Such web servers are known in the art and will not be

discussed here in any detail."

Thus, it is understood that Huck teaches "two or more proprietary IM

servers in a data-packet-network each providing a different IM service and

protocol to specific clients (Fig. 1, elements 22, 24, 26 and 28)."

c.   Now let us look at **Fig. 1, element 30's make-up as follows,** which

is "an IM server in a communication center, the IM server connected to the data-

packet-network (Fig.1, element 31) and to a Local Area Network (LAN) (Fig. 1,

element 18, col. 3, line 29-35) the LAN connecting computerized workstations

used by agents of the communication center (Fig. 1, elements 38, 40, 42, 44,

46).

Huck teaches at:

Fig. 1, element 30,"SOFT-ACD", and at col. 4, line 36-40, "The automatic

call distribution server 30 further includes memory (e.g., memory defined by the

hard drive or on a medium readable by one of the other drives) defining a

customer database 32 and defining customer rules and a rules engine 34."

Col. 6, line 50-56, "The call distribution server 30 instead queries the

agents 38, 40, 42, 44, and 46 in real-time to determine their status and

availability. This process is generally used regardless of whether the client machine is an e-mail client 22, a web collaboration client 24, a chat client 26, a web phone 28, or a PSTN phone 14 or a facsimile machine 16."

Col. 8, line 2-9, "For example, if a chat request comes in from a web browser and no agents are available, in one embodiment, the Soft-ACD sends the request to the media handler. The media handler for chat, in one embodiment, pushes information via chat to the user automatically; e.g. chat-on-hold, or passes the user to "browser-on-hold" where it pushes HTML-based advertising until an agent becomes available.", and at col. 8, line 24-26, "Alternatively, if the request is a chat request, the user, in one embodiment, is moved to a "chat" broadcast of current events, news, advertising, etc."

Thus, it is understood that Huck teaches "an IM server in a communication center (Fig. 1, element 30), the IM server connected to the data-packet-network (Fig.1, element 31) and to a Local Area Network (LAN) (Fig. 1, element 18, col. 3, line 29-35) the LAN connecting computerized workstations used by agents of the communication center (Fig. 1, elements 38, 40, 42, 44, 46).

d.   Huck teaches at Fig. 1, element 34 and col. 6, line 45-col. 7, line 16, "Prior art automatic call distribution systems typically maintain state, or know about all agents and what they are doing at any given time. This centralizes capability and limits scalability and flexibility. In contrast, the call distribution server 30 does not need to maintain state (though it can for statistical purposes).

The call distribution server 30 instead queries the agents 38, 40, 42, 44, and 46 in real-time to determine their status and availability. This process is generally used regardless of whether the client machine is an e-mail client 22, a web collaboration client 24, a chat client 26, a web phone 28, or a PSTN phone 14 or a facsimile machine 16. The determination of which agent to use for a specific situation is performed by the rules engine 34. In one embodiment, the rules engine 34 is a conventional rules processing component. The rules engine 34 can use an inference engine, or simple sequential logic. Rules engines are known in the art and are described, for example, in U.S. Pat. No. 5,913,061 to Gupta et al., and in U.S. Pat. No. 5,933,816 to Zeanah et al., both of which are incorporated herein by reference.

The Soft-ACD uses publish/subscribe technology. More particularly, in one embodiment, publish/subscribe software is installed on the server 30. Publish/subscribe software is known in the art for other applications. See, for example, U.S. Pat. No. 5,913,061 to Gupta et al., which is incorporated herein by reference. Publish/subscribe software that is employed, in one embodiment, is TIB/Rendezvous.TM. software available from TIBCO of Palo Alto, Calif., which is described in U.S. Pat. Nos. 5,557,798, 5,257,369, and 5,187,787 to Skeen et al., all of which are incorporated herein by reference.

In the embodiment shown in FIG. 2, agents "subscribe" to a set of skills such as language (English, French, Spanish, German, etc.) product (home electronics, appliances, music, computers, finance, returns, etc.), customer class

(standard, silver, gold, etc.) or any other business defined skills . <u>The rule-set</u>

<u>defines the appropriate skills for a given user (e.g., based on previous contact) or</u>

<u>media contact type (e-mail, voice call, chat, etc.).</u> These skills can be updated by

the agents in real time." **Note:** col. 8, line 62-63, "(50) In step S19,<u>chat routes</u>

<u>the chat session to the selected agent.</u>" And "col. 9, line 20-21, " In step S28,

<u>collaboration routes a chat session to the selected agent.</u>")

Thus, the availability of agent is based on the IM protocol capability of the

agent, since the claim limitation states that "the data including agent availability

and capability relative to one or more IM protocols", as stated above.

Thus, it is understood that "a set of routing rules for the communication

center; and stored <u>agent data for the communication center</u>, <u>the data</u> including

<u>agent availability and IM capability relative</u> to one or more IM protocols".

<u>Please note that the teachings of Huck, evidently, as stated below (col. 7,</u>

<u>line 28-53), is misconstrued by the applicant by stating that" Huck specifically</u>

<u>teaches away from applicant's ability to track agent IM protocol capability and</u>

<u>availability, as claimed. "</u>

Huck teaches at col. 7, line 28-53, "In step S2, the rules engine 34 finds

customer information, if available, in the customer database 32 based on the ID

information passed by the Soft-ACD. If no identification is available or the user is

not in the database, the rules engine 34 uses a default mechanism, typically the

first agent available. In one embodiment, depending on the incoming media

type, e.g. e-mail), a request may go to a predefined group of agents that typically

handle request for that communications media or contact type (e.g., e-mail).

In step S3, customer information, if available, is returned to the rules

engine.

In step S4, the rules engine 34 <u>selects an agent or group of agents who</u>

<u>have the required skills for the user and who are appropriate for the media type</u>

<u>with which the user initiated the request.</u>

The agent or group of agents is returned to the Soft-ACD in step S5.

After the skill(s) required are determined for a given user or media contact

type, the Soft-ACD in step S6 broadcasts an event to the selected agent or group

of agents stating that a user of a certain media contact type (chat, e-mail, voice

call, etc.) is available needing this skill(s).

Because one or more agents with these skills (or all) may be busy, only

currently available agents respond, in step S7, and there may be multiple

available agents responding."

An "agent" in Huck's view is available **if and only if** "<u>an agent or group of</u>

<u>agents who have the required skills for the user and who are appropriate for the</u>

<u>media type with which the user initiated the request.", and this information is</u>

<u>stored in the "RULES" database, Fig. 1, element 34.</u>

e.   Huck teaches at col. 6, line 45-col. 7, line 16, and at col. 8, line 37-

63, "FIG. 3 illustrates logic, in one embodiment of the invention, for handling a

request by a user for a chat session. The logic can be implemented in computer

program code embodied in a computer readable medium, such as a hard drive of a server, or embodied in a carrier wave transmitted to a server. In one embodiment, the logic is completely or partially embodied in discrete logic components or in one or more microprocessors instead of in software.

In step S11, a user requests a chat session.

In step S12, the web server 20 invokes chat software (wherein the IM server in the communication center receives IM notifications from the two or more IM servers in the data-packet-network the notifications representing desired communication between specific clients of the IM servers in the data-packet-network and an agent of the communication center).

In step S13, chat asks the Soft-ACD for a target agent to handle the chat.

In step S14, the Soft-ACD invokes the rules engine 34.

In step S15, the rules engine uses an e-mail address, cookie, or user entered information for customer lookup and determines an appropriate group of agents with appropriate skills. A specific agent from that group is then determined via a broadcast request for availability. (FIG. 3 is simplified compared with FIG. 2 in that step S15 is illustrated as a single step while in FIG. 2, steps S2, S3, S4, S5, S6 and S7 are illustrated, "consults the communication routing rules, IM protocol capabilities, and the stored agent data to determine an available agent with the needed IM capability).

In steps S16, S17, and S18 a selection of the agent is returned to the server 20.

In step S19, chat routes the chat session to the selected agent, ("and

establishes IM communication between the specific clients and the agent

determined to be available and to have the needed IM protocol capability. ")

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless-

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 43-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Huck

(US 6, 985, 576).

Referring to claim 43,

Huck teaches an Instant Message (IM) Communication system, comprising:

two or more proprietary IM servers in a data-packet-network (Fig.1, element 20,

col. 4, line 3-30, "The system 10 further includes a web server 20. Although shown as a

single component, the web server 20 may include one or more components. The web

server 20 is a computer including components typical of web servers, e.g., such as

RAM, ROM, a processor, hard drive, floppy drive, tape drive, Zip .TM. drive, CD-ROM,

communications hardware, etc., and runs a multi-user multi-tasking operating system

such as LINUX or UNIX, for example. Software is installed on the web server 20 to

support chat, collaboration, e-mail, web phone, etc. Such web servers are known in the

art and will not be discussed here in any detail. The system 10 further includes one or

more client machines 22, 24, 26, 28, which are selectively coupled to the web server 20

by modem or other conventional communications method. The client machines 22, 24,

26, and 28 are computers, such as personal computers, or computer terminals bearing

software capable of one or more of: e-mail, web collaboration, chat, or web phone

operation. Although FIG. 1 shows respective client machines 22, 24, 26, and 28

running different client software programs, it will of course be understood that the client

machines are respectively capable of running more than one of the illustrated client

programs. Because the web server 20 runs a multi-user, multitasking operating system,

multiple clients could be running e-mail programs at the same time, multiple clients

could be running chat sessions, multiple clients can be running web collaboration

sessions, and multiple clients could be running web phone sessions all at the same

time, for example."), each providing a different IM service and protocol to specific

clients (col. 4, line 24-30, "Because the web server 20 runs a multi-user, multitasking

operating system, multiple clients could be running e-mail programs at the same time,

multiple clients could be running chat sessions, multiple clients can be running web

collaboration sessions, and multiple clients could be running web phone sessions all at

the same time, for example.");

an IM server in a communication center (Fig. 1, element 30), the server

connected to the data-packet-network (Fig.1, element 31) and to a Local Area Network

(LAN) (Fig. 1, element 18, col. 3, line 29-35) connecting computerized workstations

used by agents of the communication center (Fig. 1, elements 38, 40, 42, 44, 46);

a set of routing rules for the communication center and

stored agent data for the communication center, the data including agent

availability and IM capability relative to one or more IM protocols (Fig. 1, element 34,

col. 6, line 45-col. 7, line 16, "Prior art automatic call distribution systems typically

maintain state, or know about all agents and what they are doing at any given time.

This centralizes capability and limits scalability and flexibility. In contrast, the call

distribution server 30 does not need to maintain state (though it can for statistical

purposes). The call distribution server 30 instead queries the agents 38, 40, 42, 44, and

46 in real-time to determine their status and availability. This process is generally used

regardless of whether the client machine is an e-mail client 22, a web collaboration

client 24, a chat client 26, a web phone 28, or a PSTN phone 14 or a facsimile machine

16. <u>The determination of which agent to use for a specific situation is performed by the

rules engine 34.</u> In one embodiment, the rules engine 34 is a conventional rules

processing component. The rules engine 34 can use an inference engine, or simple

sequential logic. Rules engines are known in the art and are described, for example, in

U.S. Pat. No. 5,913,061 to Gupta et al., and in U.S. Pat. No. 5,933,816 to Zeanah et

al., both of which are incorporated herein by reference.

The Soft-ACD uses <u>publish/subscribe technology.</u> More particularly, in one

embodiment, publish/subscribe software is installed on the server 30. Publish/subscribe

software is known in the art for other applications. See, for example, U.S. Pat. No.

5,913,061 to Gupta et al., which is incorporated herein by reference. Publish/subscribe

software that is employed, in one embodiment, is TIB/Rendezvous.TM. software

available from TIBCO of Palo Alto, Calif., which is described in U.S. Pat. Nos. 5,557,798, 5,257,369, and 5,187,787 to Skeen et al., all of which are incorporated herein by reference.

In the embodiment shown in FIG. 2, agents "subscribe" to a set of skills such as language (English, French, Spanish, German, etc.) product (home electronics, appliances, music, computers, finance, returns, etc.), customer class (standard, silver, gold, etc.) or any other business defined skills . The rule-set defines the appropriate skills for a given user (e.g., based on previous contact) or media contact type (e-mail, voice call, chat, etc.). These skills can be updated by the agents in real time." **Note:** col. 8, line 62-63, "(50) In step S19,chat routes the chat session to the selected agent." And "col. 9, line 20-21, " In step S28, collaboration routes a chat session to the selected agent.")

wherein the IM server in the communication center receives IM notifications from the two or more IM servers in the data-packet-network, the notifications representing desired communication between specific clients of the IM servers in the data-packet-network and an agent of the communication center, consults the communication routing rules, IM capabilities, and the store agent data to determine an available agent with the need IM capability, and establishes IM communication between the specific clients and the agent determined to be available and to have the needed IM protocol capability (col. 6, line 45-col. 7, line 16).

Referring to claim 44,

Huck teaches the system of claim 43 wherein the IM server in the communication center, in the event of receiving an IM notification, conducts IM communication with the specified client initiating the notification, elicit information from client, and uses the elicited information along with the agent data and availability to determine the capable and available agent with whom to establish the IM communication for the client. col. 6, line 45-col. 7, line 27, col. 8, line 46, col. 9, line 6, 33 and 50).

Referring to claim 45,

Huck teaches the system of claim 43 wherein the data-packet network is the Internet network. (col.3, line 25-35).

Referring to claim 46,

Claim 46 is a claim to a communication center Instant Messaging (IM) that is implemented in the system of claim 43. Therefore claim 46 is rejected for the reasons set forth for claim 43. (please note that version of instant messaging software are identified as being Chat and Web Collaboration Session requiring Chat.)

Referring to claim 47,

Claim 47 is a claim to a communication center Instant Messaging (IM) that is implemented in the system of claim 44. Therefore claim 47 is rejected for the reasons set forth for claim 44.

Referring to claim 48,

Claim 48 is a claim to a data-packet network that is implemented in the system of claim 45. Therefore claim 48 is rejected for the reasons set forth for claim 45.

Referring to claim 49,

Claim 49 is a claim to a method for establishing an instant message communication carried out by the system of claim 43. Therefore claim 49 is rejected for the reasons set forth for claim 43.

Referring to claim 50,

Claim 50 is a claim to a method for establishing an instant message communication carried out by the system of claim 44. Therefore claim 50 is rejected for the reasons set forth for claim 44.

Referring to claim 51,

Claim 51 is a claim to a data-packet network that is implemented in the system of claim 45. Therefore claim 51 is rejected for the reasons set forth for claim 45.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 6:30 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan A. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ashok Patel
Examiner
AU 2154